



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



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Director

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**REPORT ON BOARD MOTION REGARDING SANTA MARIA REFINERY RAIL SPUR
EXTENSION (AUGUST 9, 2016 - AGENDA ITEM NO. 44-A)**

On August 9, 2016, the Board of Supervisors (Board) instructed the Chief Executive Officer (CEO) to report back on the outcome of the September 22, 2016, San Luis Obispo County Planning Commission (SLOCPC) hearing regarding the Phillips 66 Santa Maria Refinery proposal to extend an existing rail spur at their refinery in San Luis Obispo County in order to transport crude oil sands to the facility from sources outside of California. The Board also requested that the CEO report back on any additional follow-up hearings until there is a final decision on this project. The following summary report was developed in collaboration with the CEO and details recent events leading up to the September 22, 2016, hearing as well as results of the continued October 5, 2016, hearing.

Background

The Rail Spur Extension Project includes modification of the existing rail spur at the subject Santa Maria Refinery by constructing five parallel tracks and an unloading rack area. The project would involve the unloading of up to five unit trains per week with an annual maximum of 250. Trains would arrive from different North American oilfields and/or crude oil loading points.

Out of the approximately 24,500 comment letters received on the project, only 150 were in support. General consensus among the comments received was that project benefits did not outweigh the potential hazards posed to the public. Hazards that could not be mitigated mainly stem from rail accidents, oil spills, health hazards, and explosions/fires within communities along rail lines as a result of an increase of crude transport via rail.

At the initial public hearing at the SLOCPC in February of this year, staff had recommended denial of the project due to concerns that they could not require Phillips 66 to mitigate the hazardous impacts as described in the Environmental Impact Report (EIR) due to federal pre-emption rules. Staff had concluded that the County could require mitigation of environmental impacts on the refinery project site, but not along the routes that traversed from the project site to sources outside of California because the federal government regulated interstate commerce. At a continued hearing in May, the SLOCPC asked staff to "bring back additional findings and conditions of approval for their review." The new findings were to address a slightly reduced project that would involve the unloading of up to three unit trains per week as opposed to the original proposal of five unit trains per week. The hearing was then continued to September 22, 2016.

In a letter dated August 10, 2016, Phillips 66 requested that the SLOCPC continue the September hearing to March 2017. The applicant was waiting on a petition to the Federal Surface Transportation Board by Valero against the City of Benicia regarding the same issue of whether local governments had the authority to regulate interstate rail transportation in the context of local land use permits and California Environmental Quality Act review. Phillips 66 hoped to find direction as to how to look at the pre-emption issues that had arisen in their own rail spur project.

On September 20, 2016, the Benicia City Council unanimously denied the project similar to the San Luis Obispo Rail Spur Project. Earlier that day, the Surface Transportation Board denied Valero's request, pointing out that Valero was not a railroad company, so it could not claim federal pre-emption protection for its transfer station project. The Board issued further "guidance," however, warning that cities could not unreasonably interfere with rail transportation. In response, the Benicia City Council carefully instructed staff to base the findings for their denial on safety concerns at the Benicia site rather than risks to rail cities, saying that locally focused findings would be easier to defend in court if Valero sued the city.

Subsequent to these events, Phillips 66 withdrew the request to continue their hearing to March 2017 and on September 22, 2016, the SLOCPC held the continued hearing on the Rail Spur Project. After over seven hours of public testimony over the new findings and conditions and other new information submitted, the hearing was continued to October 5, 2016.

On October 5, 2016, the SLOCPC voted three to two to deny the application citing safety concerns and widespread opposition to the project as reasons for denial. Two appeals to the San Luis Obispo Board of Supervisors were received within the appeal period which ended on October 19, 2016.

The foundation of Phillips 66's appeal was the Planning Department's incorrect application of provisions of the County's Coastal Zone Land Use Ordinance regarding Environmentally Sensitive Habitat Areas. In addition, the appeal letter stated that the findings for denial were factually inaccurate and inconsistent with the EIR and proposed conditions. A second appeal was also received from a member of the public regarding vertical public access to the coast as part of the Coastal Act.

A future update to your Board will be provided once the appeal hearing to the San Luis Obispo Board of Supervisors has concluded and results are known. Questions regarding this report may be addressed to Patricia Hachiya, Impact Analysis Section, at phachiya@planning.lacounty.gov or (213) 974-6461.

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c: Executive Office, Board of Supervisors
County Counsel
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